



Hendry County Sheriff's Office

General Order 11.2

TITLE: Disciplinary Actions / Procedures	SHERIFF'S APPROVAL: Digital
ORIGINATION DATE: August 4, 2018	REVISION DATE: May 23, 2019
RELATED REFERENCES: <i>Federal Fair Labor Standards Act, § 112.532, F.S., General Records Retention Schedule, GO 11.3: Grievances, GO 11.4: Appeals, GO 17.6: Employee Assistance Program</i>	
CFA: 7.02M, 7.03, 7.04, 7.05, 7.06	
REVIEW FREQUENCY: 3 YEARS	DATE OF NEXT REVIEW: May 23, 2022

I. PURPOSE: The purpose of this order is to give members an understanding in the disciplinary process and the alternatives to formal discipline.

II. SCOPE: This order shall apply to all sheriffs' office members.

III. POLICY: The Sheriff's Office shall educate employees on established policies and procedures in order to ensure compliance and encourage appropriate employee behavior, which is positive and supportive of the goals and objectives of the agency. The Sheriff's Office shall prescribe uniform guidelines to be used when disciplinary actions are required. Employees shall be disciplined only for just cause.

The primary goals of disciplinary action are to educate employees in order to achieve proper professional conduct, avoid violations of agency policies, and use appropriate corrective actions for policy violations.

IV. PROCEDURE:

A. Alternatives to Formal Discipline

1. The Sheriff's Office encourages supervision to consider alternatives to discipline with the goal of improving employee productivity/conduct. Any alternative to formal discipline is not considered discipline for the purposes of the collective bargaining agreements. These alternatives include, but are not limited to, the following.

a. Verbal Counseling

- (1) An informal discussion usually between the employee and the employee's immediate supervisor, designed to help the employee improve performance or behavior by clarifying the standards required, stressing the employee's good performance and weaknesses, and subsequently outlining steps necessary to correct weaknesses or deficiencies.

b. Written Counseling

- (1) Written Counseling notices may be issued by immediate supervisors to employees for minor infractions or offenses to explain what the offense is, why it is against the rules, and to provide notice that failure to improve may result in disciplinary action. Documentation will be made on an *Employee Counseling Form*.

c. Letter of Reprimand

- (1) Letter of Reprimand notices may be issued by immediate supervisors and approved by division supervisor. A Letter of Reprimand is documented on *Employee Counseling Form*, may be issued when an employee fails to follow verbal and/or written counseling, for serious offenses, or for repeated minor infractions.

d. Remedial Training

- (1) Remedial training will be conducted according to agency procedure. Remedial training will be at the discretion of the division supervisor and will be documented in the member's training file.

e. Employee Assistance Program/Professional Counseling

- (1) An immediate supervisor may perceive that an employee's work performance is affected by stress, personal problems, etc. Referrals to the Employee Assistance Program (EAP) will be in accordance with *GO 17.6: Employee Assistance Program – (EAP)*.

B. Types of Formal Discipline

1. An employee may request that a representative be present during any disciplinary investigation meeting in which the employee is being questioned relative to alleged misconduct, or during a pre-determination hearing where the employee is present and the discipline of the employee is being considered and discussed. No formal discipline other than termination of employment or demotion shall become effective until the appeal or grievance of said discipline is completed, or the time frames for filing such appeal or grievance have expired.
 - a. Demotion - The Sheriff may, for just cause, demote an employee. Such demotion may be in the form of a reduction in pay, reduction to a lower job classification, or both.
 - b. Suspension - The Sheriff or delegate authority may suspend an employee, with or without pay, for the following reasons:
 - (1) Disciplinary action for some prohibited activity or incidence of misconduct.
 - (2) Administrative action pending the resolution of an official inquiry or formal investigation.
 - (3) Emergency suspension and fitness for duty.
2. Suspensions without pay will be, at a minimum, in accordance with the provisions of *Florida Statute 112.532*. Classified bargaining unit employees who have a bargaining unit agreement with the Sheriff will be suspended without pay in accordance with their respective bargaining unit agreements.

C. Dismissal

1. The Sheriff may dismiss an employee for delinquency, misconduct, inefficiency, refusal to work, or inability to perform the work in a satisfactory manner.
2. Notice of dismissal to employees will be in writing and indicate the effective date, specific nature of the charges and details concerning them, such as status of fringe and retirement benefits, and statement outlining the employee's rights.
3. Exempt employees without a written contract or probationary employees may be dismissed as an 'at will' employee at the discretion of the Sheriff. Neither exempt employees nor probationary employees have any appeal right before the Professional Standards Unit.
4. Leave benefits as well as any other fringe benefits may or may not, at the discretion of the Sheriff, be provided to the employee. The determination of the receipt of leave and fringe benefits will be considered based on the facts and circumstances of the dismissal. Bargaining unit employees being dismissed who have a bargaining unit agreement with the Sheriff will be provided their leave and fringe benefits in accordance with their respective bargaining unit agreements.
5. The dismissed employee will be given a statement of fringe benefits provided to the employee. This statement of benefits will be mailed or hand delivered to the employee within seven working days of the dismissal.
6. The employees' retirement benefits will not be forfeited based on dismissal. The Florida Retirement System will determine forfeiture of benefits based on the criminal conduct of a Florida Retirement System member.

D. Demotion/Suspension/Dismissal

1. Upon a decision to take formal disciplinary action against a member, the Sheriff or designee, will provide written notification to the employee of the nature and effective date of the action. The notice will also contain a concise statement of the basis for the disciplinary action taken and citation of any appropriate Sheriff's Office rules and regulations, along with what agency equipment will be turned back into the agency.
2. Any enacted suspension without pay of a member who is overtime eligible will prohibit any compensation for the suspension period.
3. Any enacted suspension without pay of a member who is overtime exempt will be in accordance with the provisions of the federal Fair Labor Standards Act.
4. During a period of suspension without pay, there will be no accrual of leave benefits, and the suspended employee may be required to pay his/her dependent insurance premiums to continue coverage during the suspension period. A bargaining unit employee suspended without pay for a full pay period or longer will not accrue annual leave benefits during the time served as suspension. The Sheriff's Office will maintain the employee's health and life insurance coverage as is, until the final disposition of the grievance/appeal process.
5. If a bargaining unit member is suspended without pay pursuant to being arrested or charged with a criminal offense, the employee may be paid from their annual leave or compensatory leave banks, not to exceed 80 total hours of pay for each 14 day work cycle during the investigative and appeal process. If the employee is not subject to disciplinary action for violating the policies and/or procedures of the Hendry County Sheriff's Office, the annual leave used during the suspension or appeal period will be returned to the employee's leave banks.

E. Notice of Appeal Rights

1. The disciplinary grievance/appeals procedures of the Sheriff's Office are outlined in *GO 11.3: Grievances* and *GO 11.4: Appeals*. Any member who is suspended without pay, demoted, or dismissed by the Sheriff of Hendry County will be entitled to a hearing before the Sheriff or his designee, to determine whether or not just cause exists for the disciplinary action to be taken. Employees who are members of a bargaining unit, who have a bargaining unit agreement with the Sheriff, are provided an alternative to the appeal process. A bargaining unit employee subjected to disciplinary action may file a contract grievance to disciplinary actions. The disciplinary grievance procedures for a bargaining unit employee are outlined in his/her respective bargaining unit agreement.

F. Authority and Disciplinary Reviews

1. The authority to impose disciplinary actions involving suspensions, demotions or reductions in pay, or dismissals is normally reserved for the Sheriff. Such authority may be delegated to a subordinate supervisor.
2. The appropriate supervisor from the employee's chain of command is responsible for serving discipline (personally delivering the applicable paperwork) on the employee. The appropriate chain of command is that command where the employee was assigned at the time the violation occurred. The Sheriff reserves the right to provide other alternatives to the service or notice of discipline to an affected employee.
3. Initiating Discipline
 - a. When a supervisor intends to impose a formal disciplinary action, that supervisor will draft a memorandum titled Notice of Intention to Discipline. The initiating supervisor will conduct a finding of fact and address those facts in the body of the memorandum, as well as all supporting documentation. Any finding of fact on a law enforcement or corrections officer will be completed in accordance with *Florida Statutes 112.532* and the respective employee's bargaining unit agreement, if one is in place.
 - b. The memorandum titled Notice of Intention to Discipline must be approved by each supervisor in the employee's chain of command prior to being served on the employee. A person in the employee's chain of command may comment on the Notice of Intent to Discipline as well as request the Sheriff to defer the matter to the Professional Standards Unit for further inquiry.
 - c. Upon final approval by the Sheriff of a sustained disciplinary action, the initiating supervisor will initiate a memorandum to the employee stating the imposed disciplinary action and any conditions of the disciplinary action. That employee's division commander will deliver the memorandum as well as a copy of the investigative report and supportive material to the employee.
4. Maintenance of Records of Disciplinary Action
 - a. The Professional Standards Unit will be responsible for the secure storage, maintenance and retention of the records of disciplinary action. Copies of allegation, findings of the investigation, and the disciplinary action will be filed in the employee's personnel file and maintained by Human Resources.
 - b. Each employee shall be furnished a copy of all disciplinary actions placed within the employee's official personnel file and shall be noticed and permitted to respond in writing to any document placed within the personnel file that contains reference to discipline, substandard conduct, and/or substandard performance. Responses must represent only the

subject matter in the disciplinary action. Irrelevant statements may result in additional inquiries or investigations.

V. GLOSSARY:

DEMOTION – A reduction in rank after the employee has successfully completed his probationary period in the position.

FORMAL DISCIPLINE – A suspension or greater.

IMMEDIATE SUPERVISOR – The individual who normally has the responsibility for scheduling, assigning and reviewing the work of the employee; and to whom the employee customarily reports to for direction and instruction concerned with work assignments on a regular basis.

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